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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,115	01/03/2005	Olivier Favorel	0518-1080-1	9534

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EXAMINER	
VETTER, DANIEL	
ART UNIT	PAPER NUMBER
3628	

NOTIFICATION DATE	DELIVERY MODE
01/20/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary	Application No.	Applicant(s)	
	10/520,115	FAVOREL ET AL.	
	Examiner	Art Unit	
	DANIEL VETTER	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 October 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *21 and 23-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21 and 23-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of the Claims

1. Claims 21 and 23-29 were previously pending. Claim 21 was amended in the reply filed October 19, 2010. Claims 21 and 23-29 are currently pending.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 19, 2010 has been entered.

Response to Arguments

3. Applicant's arguments filed have been fully considered but they are not persuasive. Applicant's arguments against Boies individually are unpersuasive where they involve limitations for which other references are relied upon to show. Examiner also maintains that Boies teaches analyzing an updated group of customers and seats. In Boies, when new reservations are made, a group of "flexible" customers and seats are reevaluated for allocation. After each reallocation an updated group is reevaluated when the next request is made. The Remarks indicate that the invention involves "all possible seats" and "all customers." Remarks, 12. However, this is not recited in the rejected claims. The claims merely recite "a group of customers" and "seats available for the allocation." As such, it reads upon the embodiment in Boies where some seats are may be flexible and some may not be. Moreover, such an embodiment does not have support in the as-filed disclosure (see previous rejections made under § 112, 1st ¶; see also ¶ 0028 of the published application discussing seats which are confirmed and may not be reassigned or reallocated). Additionally, Examiner maintains that the process in Boies is plainly iterative as required by the claims (see ¶ 0028—"As

subsequent requests are received, the central controller 100 reassigned passengers to different seats that satisfy their seating requests and satisfy the incoming requests.").

With respect to Seth, Applicant argues that a normally skilled person would not look to its matching methodology and apply it to seat assignment. Examiner respectfully disagrees and maintains that Seth's satisfaction calculation is applicable to any good or service with rankable attributes and would have been obvious to incorporate for the reasons set forth below. Examiner also maintains that the relative values placed on different attributes in Seth meets the claimed "attribute weight" requirement. Seth fully discloses that some attributes are specified as more desirable than others at least in the passages specified below.

With respect to Walker, Applicant argues that the priority discussed is applied to seats rather than customers. However, the difference is illusory. The ranking/priority given in Walker is applied to offers made by customers. Thus, it is the customers and their respective offers being evaluated by decreasing order of priority, rather than the seats as alleged in the Remarks. Walker also discusses ranking frequent fliers above other customers (see col. 6, lines 27-33). The claim does not specify any manner in which the priority is established, and thus reads upon those disclosed in Walker. Accordingly, the rejections made under § 103(a) are maintained.

Claim Objections

4. Claim 21 is objected to because of the following informalities: "cancellation of [a] seat" appears to be a typographical error. Additionally, the claim as amended repeats the phrase "the satisfaction value being a percentage of satisfaction." Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

> invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 21 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boies, et al., U.S. Pat. Pub. No. 2002/0082878 (Reference A of the PTO-892 part of paper no. 20080513) in view of Seth, et al., U.S. Pat. No. 7,065,499 (Reference A of the PTO-892 part of paper no. 20100714) and Walker, et al., U.S. Pat. No. 6,112,185 (Reference B of the PTO-892 part of paper no. 20080513).

7. As per claim 21, Boies teaches a method for the allocation of seats to customers, usable with a computerized reservation system, comprising: assignment, in a database, to each customer, of data relative to placement criteria (¶ 0038); determination of a group of customers for who an allocation is possible (¶ 0041); definition of seats available for the allocation (¶ 0045); determination of a satisfaction value of the customers of the group of customers for each seat available for the allocation as a function of agreement with the placement criteria (¶ 0046), assignment, in a database, to each customer, of a priority level (¶ 0038), assignment of seats available for the allocation to all the customers of the group of customers by allocation with an allocation server, to each customer of the group of customers, of the seat available for the allocation having the maximum satisfaction value (¶ 0046), and upon each new reservation or cancellation of a seat (¶ 0028), determination of an updated group of customers for who an allocation is possible (¶¶ 0041, 45); definition of an updated set of seats available for the allocation (¶ 0045); determination of the satisfaction value of the customers of the updated group of customers for each seat of the updated set of seats available for the allocation as a function of agreement with the placement criteria (¶ 0046), assignment of seats of the updated set of seats available for the allocation to all the customers of the updated group of customers by allocation with an allocation server, to each customer of the updated group of customers, of the available seat of the updated set of seats available for the allocation having the maximum satisfaction value (¶¶ 0043-46).

Boies does not teach that the determinations are by a processor, assignment to each placement criterion, of an attribute weight, and that the satisfaction value is a

particular numerical amount resulting from a specific mathematical operation, the satisfaction value being a percentage of satisfaction, a maximum satisfaction being 100 percent; which are taught by Seth (col. 8, line 58 – col. 9, line 11; col. 12, lines 25-39). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above features for the same reason they are useful in Seth—namely, to facilitate a customer satisfaction analysis among multiple similar and related choices. Additionally, this is merely a combination of old and already-known elements in the art of good/service evaluation. In the combination each element performs the same function as it did separately, and one skilled in the art would have recognized that the combination could be implemented through routine engineering and that the results of the combination were predictable.

Moreover, making the determination by a processor rather than a person is merely the automation of an already-known step disclosed as shown in the references above. Broadly providing an automatic means to accomplish a known activity is not sufficient to distinguish a claimed invention over the prior art. *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). In this case, performing the determination automatically using a processor would have been an obvious expedient that could have been obtained through routine engineering producing predictable results. Examiner notes that while the embodiment set forth as an example in Seth does not specifically deal with a seat for travel, one skilled in the art would have recognized that the weighting preferences methodology and analysis used in Seth are easily extensible for other products and services that have discernable attributes such as an airline seat.

Boies does not explicitly teach that the allocation steps are done by decreasing order of level of priority, which is taught by Walker (col. 6, lines 6-33). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings of Walker because this is merely a combination of old and already-known elements in the travel reservations industry. In the combination each element performs the same function as it did separately, and one skilled in the art would have recognized that the combination could be implemented through routine engineering and that the results of the combination were predictable.

8. As per claim 24, Boies in view of Seth and Walker teaches the method of claim 21 as described above. Boies further teaches there is assigned to each seat at least one attribute indicating inclusion in group of available seats, for the definition of the seats available for allocation (¶ 0021).

9. As per claim 25, Boies in view of Seth and Walker teaches method of claim 24 as described above. Boies further teaches that there is excluded from the group of available seats, seats whose reservation is confirmed by the customer (¶ 0009).

10. As per claim 26, Boies in view of Seth and Walker teaches method of claim 25 as described above. Boies further teaches for customers whose seat has a confirmed reservation, there is carried out a search procedure for a possible better seat by the steps of allocation (¶ 0046).

11. As per claim 27, Boies in view of Seth and Walker teaches method of claim 21 as described above. Boies further teaches the placement criteria comprise data as to zone or location of the seats desired by the customer (¶ 0042).

12. As per claim 28, Boies in view of Seth and Walker teaches method of claim 21 as described above. Boies further teaches the placement criteria comprise an adjacency criterion of the customer to at least one other customer (¶ 0039).

13. As per claim 29, Boies in view of Seth and Walker teaches method of claim 21 as described above. Boies further teaches there is assigned to each placement criterion an attribute defining it either as mandatory or as preferred (¶¶ 0041-43).

14. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boies, et al. in view of Seth, et al. and Walker, et al. as applied to claim 21 above, further in view of Official Notice considered admitted prior art.

15. As per claim 23, Boies in view of Seth and Walker teaches the method of claim 21 as described above. Boies in view of Seth and Walker does not teach upon all the available seats being assigned, placing remaining customers on a waiting list. Official Notice was previously taken and not challenged that waiting lists are old and well-known in the reservations art. This finding is considered admitted prior art. It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to

incorporate the above finding of Official Notice, for example, so that a list of potential passengers can be easily accessed in the event that another seat becomes available. Moreover, this is merely a combination of old and already-known elements. In the combination each element performs the same function as it did separately, and one skilled in the art would have recognized that the combination could be implemented through routine engineering and that the results of the combination were predictable.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Dombroski, et al., U.S. Pat. Pub. No. 2003/0023463 (Reference A of the attached PTO-892) teaches a travel reservation system that includes ranking weighted factors for booking customer air travel (see ¶¶ 0092-0110).

17. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL VETTER whose telephone number is (571)270-1366. The examiner can normally be reached on Monday - Thursday 9am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.
/DPV/

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628